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JUN 22 2010
OFFICE OF PETITIONS

In re Application of :
Kurt BUSINGER :
Application No. 10/769,368 :
Filed: January 30, 2004 :
Attorney Docket No. 21204.0182US :
DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 19, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 20, 2010.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of \$1,620.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of October 19, 2009, is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$1,110.00 extension of time fee submitted with the petition on April 22, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application file is being referred to Technology Center AU 3714 for appropriate action on the concurrently filed amendment.



Michelle R. Eason
Paralegal Specialist
Office of Petitions